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BY OVERNIGHT MAIL

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

**ORIGINAL
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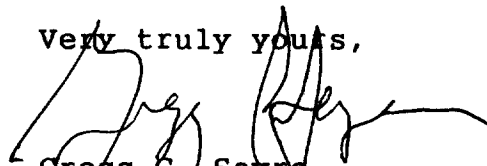
Re: CC Docket No. 92-77 - In the Matter of Billed Party
Preference for 0+ InterLATA Calls

Dear Ms. Searcy:

Enclosed for filing please find an original plus nine (9)
copies of the Comments of RCI Long Distance, Inc. in the
above-captioned proceeding.

To acknowledge receipt, please affix an appropriate
notation to the copy of this letter provided herewith for that
purpose and return same to the undersigned in the enclosed
self-addressed envelope.

Very truly yours,


Gregg C. Sayre
Senior Attorney

GCS/jaw
cc: Downtown Copy Center
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Before the
FEDERAL COMMUNICATIONS COMMISSION
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OFFICE OF THE SECRETARY

In the Matter of

Billed Party Preference
for 0+ InterLATA Calls

CC Docket No. 92-77

COMMENTS OF RCI LONG DISTANCE, INC.

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JOSEPHINE S. TRUBEK
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Gregg C. Sayre, Esq.
Of Counsel

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COMMENTS OF RCI LONG DISTANCE, INC.

In response to the Commission's May 8, 1992 Notice of Proposed Rulemaking ("NPRM"), RCI Long Distance, Inc. ("RCI"), a long distance reseller, strongly urges the Commission to reject the proposal for billed party preference. Billed party preference is unnecessary to protect end users, in light of the enactment of 47 U.S.C. §226 and the adoption of 47 C.F.R. §§64.703 - 64.708. Billed party preference would devastate the Alternative Operator Service ("AOS") industry, seriously damage small and regional long distance carriers, virtually ensure the remonopolization of service by AT&T to aggregator locations, and force end users to endure higher costs, long delays and fewer choices for competitive services.

I. Billed Party Preference Is Unnecessary To Protect End Users.

Congress and the Commission have mandated the unblocking of aggregator telephones, ensuring the availability of 10xxx+, 800+ and/or 950+ calling by end users who wish to choose their providers of calling card or operator services. 47 U.S.C. §226; 47 C.F.R. §§64.704. Long distance carriers

have engaged in nationwide advertising informing customers how to use 10xxx access codes, and every long distance carrier's information package and calling card instructions for new customers explain how to use access codes to reach the carrier. If consumers do not know how to use 10xxx (or 800 or 950) dialing yet, they will surely be fully educated within a year or two.

Billed party preference starts with the assumption that the calling party does not know what he or she is doing when using 0+ to initiate a call. Based on that assumption, the proposal would require a vast complexity of database additions, call setup delays, carrier-carrier agreements, operator transfer procedures and other difficulties, all of which will end up costing consumers time and money. Requiring all these complexities on the assumption that consumers are ignorant would be paternalistic and an insult to the intelligence of the American public. The appropriate solution is to allow the industry to educate consumers, not to engraft new layers of regulation onto the provision of long distance service, and thereby cause the great variety of untoward consequences described below.

Billed party preference also assumes, without proof, that end users want all their 0+ traffic routed to their 1+ carriers. This may very well be false. For example, customers of a regional carrier may wish to use that carrier's 0+ service

in one area, and another carrier's 0+ services elsewhere. Billed party preference would confuse, not simplify, this situation.

II. Billed Party Preference Would Devastate The AOS Industry.

Firms providing operator services to aggregator locations can be broken into three general categories: the largest national facilities-based long distance carriers (AT&T, MCI and Sprint); regional and smaller national carriers, such as RCI and Wiltel; and AOS firms, which typically do not have end user customers. Billed party preference would drive the latter category of providers out of business. By definition, all 0+ traffic from an aggregator location would be routed to an end user's 1+ carrier, either the caller's or the called party's carrier, depending upon whether the charges are reversed. No 0+ traffic at all would be directed to a presubscribed AOS provider, unless the AOS provider became a carrier and could attract a sufficient number of end users to receive a few calls from aggregator locations. The effect on AOS providers would be inescapable; they would be driven out of the market immediately. New AOS firms would be precluded from entering the market without a large established base of 1+ customers. This would leave only the carriers with large numbers of customers providing service to aggregator

locations. The damage to operator services competition would be substantial.

III. Billed Party Preference Would Seriously Harm Regional and Smaller National Carriers.

Mandating billed party preference would force regional carriers such as RCI and the smaller national carriers to incur large expenses. A carrier such as RCI, without Points of Presence ("POPs") in many states, would be compelled to make some kind of partnership arrangements with one or more of the three largest carriers to transport the traffic dialed by its customers on a 0+ basis (or dialed by anyone to its customers on a collect 0+ basis) wherever it does not have a POP. Furthermore, unless every regional carrier is prepared to be certified for intrastate service in all jurisdictions, intrastate 0+ calls would either be blocked, or some further partnership arrangement with another carrier would be required for intrastate traffic. In either case, the regional carrier would be competitively injured because its customers' calls would either be blocked or handled by another carrier. Moreover, there is no guarantee of fair or equitable treatment of small carriers. They would be left to the "tender mercies" of their largest competitors.

In addition, every small carrier would have to arrange to transfer calls routed to it on a 0+ basis, when the

call turns out to be a collect call. For the great majority of such calls, there would be two operators, because it cannot be determined in advance whether the call is to be billed to the caller or the called party. Thus, operator services for both the carrier of the caller and the carrier of the called party would be required. If the call is to be billed to a third number, presumably the call would have to be routed to the operator service facilities of the carrier to which the third number line is presubscribed. The necessary facilities for intercarrier transfer of these calls do not exist today, nor is there any mechanism for compensation of the first carrier's costs to answer, process and transfer these calls.

Worse than an increase of costs to small carriers from billed party preference would be the substantial loss of carrier and aggregator revenues. RCI provides wholesale operator services under contract to a number of AOS firms. If, as discussed above, AOS firms without a wide base of 1+ end users are put out of business, underlying carriers such as RCI will suffer as well. RCI would also experience the loss of aggregator customers, because billed party preference would make it almost impossible for regional carriers to compete with the three largest carriers for presubscriptions in aggregator locations. This surely unintended result of the proposal is described more fully below.

IV. Billed Party Preference Would Cause AT&T To Remonopolize Service To Aggregator Locations.

The NPRM claims that billed party preference would give all IXCs an equal opportunity to compete for 0+ traffic. NPRM, para. 21, 24. To the contrary, billed party preference would virtually eliminate competition for presubscription in aggregator locations. Carriers compete for aggregator presubscription by offering commissions to the premises owner. For a regional carrier like RCI, with a relatively small share of the end user market, billed party preference would ensure that only a relatively small number of calls from an aggregator location would ever be routed to it. In fact, the only calls that it would receive from aggregator locations as a result of presubscription would be 1+ or 00- calls. Such calls are only a tiny fraction of calls from payphone locations, and even when such calls are dialed, they are often abandoned when the customer declines to deposit cash or allow the presubscribed carrier to complete the call.

The commissions that RCI could afford to pay for aggregator calls would thus be a small fraction of the commissions that the three largest carriers would likely offer on the aggregator calls routed to them. AT&T, of course, would have the largest share and could pay the largest commissions. The net result would be the remonopolization of aggregator locations.

It is possible, however, if the proposal is adopted, that no carrier would ever again pay any commissions on 0+ calls, because the routing of 0+ calls would be independent of the presubscription of the aggregator's telephone. The result in such a case would be a great reduction in the commission revenues available to aggregators from carriers, and a great increase in the non-revenue producing time for all payphones. Private paystation owners would be unable to afford to place instruments in as many locations as they do today, and would be unable to pay for as many sophisticated instruments offering additional services to end users. The loss of paystations would be a serious risk to consumer health and safety.

Alternatively, private paystation owners might demand that all 0+ calls be treated as "access code" calls for purposes of compensation required by the rules adopted by the Commission in CC Docket No. 91-35 (Second Report and Order, Released May 8, 1992), on the ground that all 0+ calls would be routed as if access codes had been dialed on each call, i.e., calls would not be routed to the presubscribed carrier. If the Commission were to uphold such demands, the costs of such compensation would fall only upon those carriers, such as RCI, who are required to pay.

In any event, carriers such as RCI would have no way to compete with the three largest national carriers for aggregator presubscriptions.

V. Billed Party Preference Would Degrade Service To End Users.

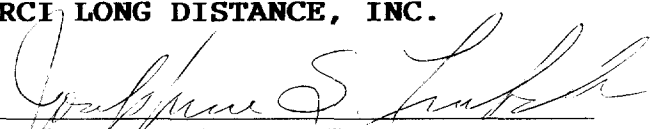
Billed party preference would undoubtedly result in increases in the rates charged by carriers and AOS providers to end users, because of the substantial costs of implementation. In addition, it would add very substantially to the setup time for all third party and collect calls, because most of such calls would require the intervention of two operators. As discussed above, due to the probable loss of paystation commissions on 0+ calls, the likely result of billed party preference would be fewer private paystations, offering fewer enhanced features. The reduction or elimination of competition for paystation and other aggregator presubscription would mean reductions in consumer choices.

In conclusion, the unfortunate and presumably unintended consequences discussed above are based on the assumptions (for which there is no firm evidence) that customers do not know what they are doing, and that they cannot learn to dial an access code when they wish to route their call to a particular carrier, and that current 10xxx, 800 or 950 access methods are insufficient. If the Commission is willing to assume that customers are intelligent enough to use access codes, the obvious solution to any problem in this area is to educate customers, not to make a paternalistic decision to

require pervasive, expensive and anticompetitive changes in the nation's long distance network. For all these reasons, RCI urges the Commission not to adopt the proposal to require billed party preference.

Respectfully submitted,

RCI LONG DISTANCE, INC.



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